May 14, 2012

VIA ELECTRONIC SUBMISSION

Memorandum of Ex Parte Presentation

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund,* WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208

Re: *In the Matter of Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain Legacy Telecommunications Regulations,* WC Docket No. 12-61

Dear Ms. Dortch:

On May 10, Matt Pierce (Indiana State Representative; Lecturer, Department of Telecommunications, Indiana University) and Barbara Cherry (Professor, Department of Telecommunications, Indiana University) met with Sharon Gillett, Carol Mattey, Alexander Minard, Travis Litman, Lisa Gelb, Tim Stelzig, Jennifer Prime, and Claude Aiken, all of the Wireline Competition Bureau, regarding the above-referenced proceedings.

Representative Pierce and Professor Cherry discussed Indiana HB 1112, which was passed by the Indiana General Assembly and signed by the Governor in February 2012. This new law permits, after June 30, 2014, an incumbent local exchange carrier (ILEC) to be relieved of its carrier of last resort obligations (COLR) in any part of its service area upon filing a notice to the Indiana Utilities Regulatory Commission, when there are at least two providers (one of which may be the ILEC) offering voice service through any technology or medium and are eligible, but not required, to be eligible telecommunications carriers (ETCs) under federal law.

Rep. Pierce discussed lobbying activities of supporters of HB 1112, primarily by AT&T and to a lesser extent by the Indiana Telecommunications Association. Rep. Pierce provided a copy of a presentation distributed to Indiana state legislators during a hearing of the Indiana House Utilities and Energy Committee hearing on January 12, 2012, a copy of which is attached. He explained that, at this hearing, the AT&T representative told state legislators that elimination of state COLR was necessary to avoid irrational capital spending in a wireline network that customers do not want, and that federal law will continue to protect customers because the FCC's recent USF/ICC Reform Order does not eliminate COLR obligations. At the hearing, Rep. Pierce asked what federal law provided this protection. A lobbyist representing AT&T handed Rep. Pierce a handwritten note, a copy of which is attached, that refers to sec. 214(e)(1) under the Communications Act of 1934 as amended by the Telecommunications Act of 1996. Outside counsel for AT&T then told the Committee that Indiana legislators could be confident that federal COLR-like requirements would continue because sec. 214(e)(1) was a statute enacted by Congress that would have to be repealed by Congress rather than a regulation that could be repealed by the FCC alone.

At no time, however, did AT&T disclose that it had filed comments in the *Connect America Fund* proceeding, requesting that the FCC reinterpret or forbear from applying sec. 214(e)(1) to the extent that this section requires ETCs to offer service in areas where they receive no high-cost support. AT&T has also subsequently filed comments in support of forbearance of sec. 214 in the *Petition of USTelecom for Forbearance* proceeding.

Rep. Pierce and Prof. Cherry encouraged the Commission to view the passage of Indiana HB 1112 as part of an overall regulatory and policy strategy by AT&T to change federal and states laws to accomplish certain business objectives that may adversely affect customers. In this regard, AT&T seeks freedom to decide when, where and to whom to provide services - as well as the prices, terms and conditions - of its own choosing. One means of doing so is to replace the provision of Title II services by Title I services, such as broadband. Another is to eliminate state and federal COLR obligations so as to allow discontinuance of service offerings with minimal or no government oversight as well as to enable further substitution of Title I for Title II services. Unfortunately, AT&T is using lobbying tactics that inhibit awareness of the combinatorial effect of achieving their policy goals under both federal and state laws.

Sincerely,

Barbara A. Cherry

Barbara A. Cherry
Professor, Dept. of Telecommunications
Radio and Television Center
Indiana University
1229 E. Seventh Str.
Bloomington, IN 47405-5501

cc. Sharon Gillett
Carol Mattey
Alexander Minard
Travis Litman
Lisa Gelb
Tim Stelzig
Jennifer Prime
Claude Aiken
Rep. Matt Pierce